IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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JUDGMENT

M/s. SBS Auto Agency and another.
vs.
Ramgopal Sharma.

S.B.CIVIL SECOND APPEAL NO.259/2004 UNDER SECTION 100 CPC AGAINST THE JUDGMENT AND DECREE DATED 24.2.2004 PASSED BY SHRI TARA CHAND SONI, ADDITIONAL DISTRICT JUDGE NO.1, JODHPUR IN CIVIL APPEAL DECREE NO.31/2001.

DATE OF JUDGMENT ::: 5.1.2007

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. RK Thanvi, for the appellants.
Mr. NR Choudhary, for the respondent.

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BY THE COURT:

Heard learned counsel for the parties.

Two courts below concurrently decided the issues of personal bonafide necessity and comparative hardship

in favour of the plaintiff/respondent.

According to learned counsel for the appellants, the plaintiff filed the suit for eviction of the appellant/defendant on the ground that the plaintiff has only one room in his house whereas in fact, there were two more rooms at first floor and, therefore, the plaintiff did not require the suit premises.

I considered the submissions of learned counsel for the appellants and perused the reasons given by the two courts below as well as the facts of the case.

The plaintiff filed the suit on the ground of personal bonafide necessity for his professional work as he is a fortune teller. According to the plaintiff, the plaintiff has one room in his house and therefore, he cannot attend other persons visiting off and on. This pleading was in view of the fact that he has only one room in the ground floor which he could have used for this purpose. This fact has been considered by the courts below and thereafter, the courts below recorded finding of fact concurrently in favour of the plaintiff. In view of the above, no substantial question of law is involved in this appeal. Accordingly, this appeal deserves to be dismissed.

At this stage, learned counsel for the appellants prayed that two years' time may be granted to vacate the suit premises.

Learned counsel for the respondent has serious objection.

Be it as it may be, looking to the totality of the facts and in view of the fact that the appellants are having business premises, this Court deems that the appellant be granted time uptill 30.6.2008 to vacate the suit shop.

Therefore, it is ordered that in case, the appellants furnish a written undertaking before the trial court within a period of two months from today that they shall hand over the vacant possession to the landlord by or before 30.6.2008 and shall not part with the possession or sublet the suit premises during this period and shall pay all the arrears of rent and decreetal amount, if due, within a period of two months from today before the trial court or directly to the landlord, the decree under challenge shall not be executed till 1.7.2008. The appellants shall also deposit the rent month by month by 15th day of each succeeding month of their tenancy in the trial court.

In case of non-compliance of the order or default in payment of rent mentioned above, the decree shall

become executable forthwith.

With the aforesaid concession, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya